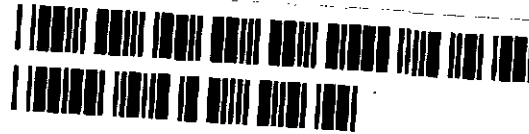


Judge Richard A. Jones



07-CR-00432-WV

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DONALD BRANDT,

Defendant.

NO. CR07-432RAJ

PRELIMINARY ORDER
OF FORFEITURE

Pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, and based upon the guilty plea of DONALD BRANDT to the offense of Causing the Introduction into Interstate Commerce of an Adulterated Medical Device, as charged in Count 1 of the Information, in violation of Title 21, United States Code, Section 331(a) and Title 18, United States Code, Section 2, and upon the terms of the Plea Agreement filed in this matter between DONALD BRANDT and the United States, it is hereby

ORDERED, ADJUDGED and DECREED that pursuant to Title 21, United States Code, Section 334, and Title 28, United States Code, Section 2461(c), DONALD BRANDT shall forfeit the following property to the United States of America:

- a. Three BK Precision 21.5 MHZ Multi-Function Arbitrary Wave Form Generators, Model 4070, serial numbers 36701010007, 36701010004, 36709000018;
- b. Two BK Precision Multi-Function Arbitrary Wave Form Generators, Model 3011B, serial numbers 147-15108 and 147-15107;
- c. One Electro-Acuscope, Model 70, serial number AP85P04305; and
- d. One Vibe Machine, Model JD, serial number 23.

IT IS FURTHER ORDERED that the United States Marshals Service shall seize

1 the above-described property and maintain such seized property in its custody and
2 control until further order of this Court, or until this Order becomes final pursuant to Rule
3 32.2(c)(2) of the Federal Rules of Criminal Procedure.

4 IT IS FURTHER ORDERED that pursuant to Title 21, United States Code,
5 Section 853(n), the United States shall publish notice of the Preliminary Order of
6 Forfeiture and of the intent of the United States to dispose of the property in accordance
7 with law. The notice shall run for one (1) day each week for three (3) consecutive weeks
8 in The Daily Journal of Commerce and/or any other appropriate newspaper of general
9 circulation. The notice shall state that any person, other than the defendant, having or
10 claiming a legal interest in the above-described property must file a petition with the
11 Court within thirty (30) days of the final publication of notice or of receipt of actual
12 notice, whichever is earlier.

13 The notice shall advise such interested person that:

- 14 1. the petition shall be for a hearing to adjudicate the validity of the
15 petitioner's alleged interest in such property;
- 16 2. the petition shall be signed by the petitioner under penalty of perjury; and
- 17 3. the petition shall set forth the nature and extent of the petitioner's right,
18 title or interest in the forfeited property.

19 The petition shall also set forth any additional facts supporting the petitioner's
20 claim and the relief sought.

21 The United States shall also, to the extent possible, provide direct written notice as
22 a substitute for the published notice to any person known to have alleged an interest in the
23 above-described property, which is the subject of this Preliminary Order of Forfeiture.
24 Upon adjudication of any third-party claims, this court will enter a Final Order of
25 Forfeiture pursuant to Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure, in
26 which all such claims will be addressed.

27 IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(3) of the Federal Rules
28 of Criminal Procedure, this Preliminary Order of Forfeiture shall become final as to the

1 defendant at the time of sentencing and shall be made part of the sentence and included in
2 the judgment. Based upon the Plea Agreement and the guilty plea entered by the
3 defendant herein, the Court finds that the defendant had an interest in the forfeited
4 property. If no third party files a timely claim, this Order shall become the Final Order of
5 Forfeiture as provided by Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure.

6 IT IS FURTHER ORDERED that after the disposition of any motion filed under
7 Rule 32.2(c)(1)(A) of the Federal Rules of Criminal Procedure and before a hearing on
8 any third party petition, discovery may be conducted in accordance with the Federal Rules
9 of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve
10 factual issues.

11 IT IS FURTHER ORDERED that the United States shall have clear title to the
12 above-described property following the Court's disposition of all third party interests, or,
13 if none, following the expiration of the period provided in Title 21, United States Code,
14 Section 853(n) for the filing of third party petitions.

15 IT IS FURTHER ORDERED that the Court shall retain jurisdiction to enforce this
16 Order, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of
17 Criminal Procedure.

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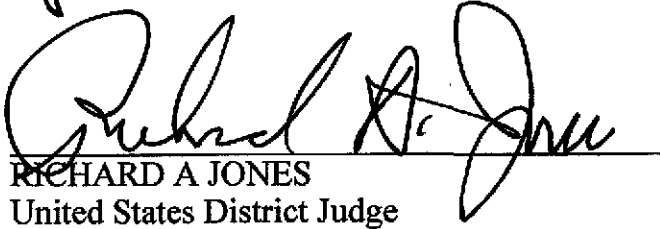
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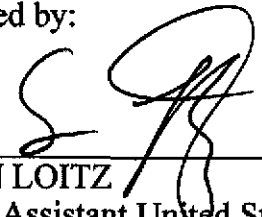
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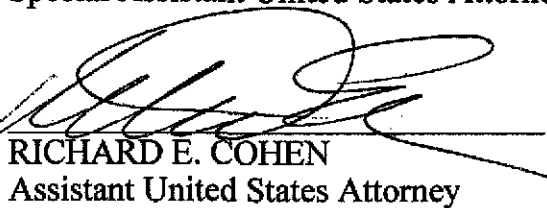
1 The Clerk of the Court is directed to send a copy of this Preliminary Order of
2 Forfeiture to all counsel of record and three (3) "raised seal" certified copies to the United
3 States Marshals Service in Seattle, Washington.

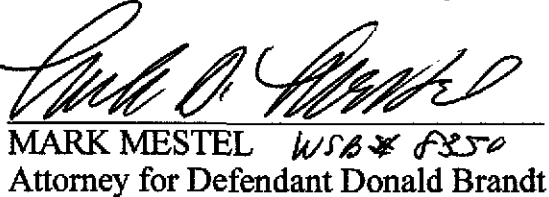
4 DATED this 22nd day of August, 2008.

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7 
8 RICHARD A JONES
United States District Judge

9
10 Presented by:

11 
12 SUSAN LOITZ
13 Special Assistant United States Attorney

14 
15 RICHARD E. COHEN
16 Assistant United States Attorney

17 
18 MARK MESTEL WSB # 6350
19 Attorney for Defendant Donald Brandt

20
21 
22 DONALD BRANDT
23 Defendant